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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,314	09/22/2003	Wesley K. Eklund	71234-0077	2313
20915	7590	10/06/2004	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503				LUGO, CARLOS
		ART UNIT		PAPER NUMBER
		3676		

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/605,314	EKLUND ET AL.
	Examiner Carlos Lugo	Art Unit 3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 June 2003.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 12 and 13 is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 June 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rotation stop that is adapted to contact a portion of the handle must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:
  - Elements 534 and 34 are not illustrated in the drawings.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:
  - Elements 240,582 and 584 are not described in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The specification is objected to because of the following informalities:
  - Paragraph 24 Line 22, change “closed keeper 164 and an open keeper 166” to -closed keeper 166 and an open keeper 164-.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. **Claims 1-11 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation “a rotation stop that is adapted to contact a portion of the handle” in line 23. It is unclear how the rotation stop (214 and 216) is adapted to contact a portion of the handle (168). According to the drawings (Figure 4) and the specification, the rotation stop (214 and 216) is in contact with a leg (244) of the flange (180) of the base plate. In order to continue with the examination, the limitation will be considered as a surface or a catch been adapted to contact the handle.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. **Claims 1-8 and 11 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,883,164 to Galbreath et al (Galbreath '164) in view of US Pat No 4,014,572 to Binns.

Regarding claims 1 and 11, Galbreath '164 discloses a the latch assembly comprising a base plate (26) adapted to mount to the door; and a handle (29) rotatably mounted to the base plate for rotation between a closed position and an open position and having a locking flange (61).

A hook (38) is rotatably mounted to the base plate and operable coupled to the handle for rotation between a locked and an unlocked position as the handle is rotated between the closed and open positions.

The assembly further comprises a closed keeper (57) having a handle catch portion (62), wherein the handle locking flange (61) is received by the keeper handle catch portion (62) when the handle is in the closed position to maintain the handle in the closed position, and an unlatched position, wherein the handle locking flange (61) is release by the closed keeper handle catch portion (62), whereby the handle can rotate from the closed position to the open position without interference from the closed flange keeper.

The closed keeper further has a surface (66) that is adapted to contact a portion of the handle when the closed keeper is in the unlatched position and the handle is moved from the open position to the closed to move the closed keeper into the latched position (Col. 5 Lines 27-36).

However, Galbreath '164 fails to disclose that the closed keeper is mounted in the base plate. Galbreath '164 discloses that the closed keeper is mounted in a second plate (59).

Binns teaches that it is well known in the art to have an assembly wherein the handle (14) and a closed keeper (11) are mounted in the same base plate (13).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the handle and the closed keeper mounted in the same base plate, as taught by Binns, into a device as described by Galbreath '164, because the fact that the handle and the closed keeper are or not mounted in the same base plate is considered as a design consideration that will not affect the movement of the mechanism of the latch assembly.

As to claim 2, Binns teaches that the closed keeper (11) is rotatably mounted to the base plate.

As to claim 3, Galbreath '164 discloses that the closed keeper (57) is biased to the latched position.

As to claim 4, Galbreath '164 discloses that the closed keeper (57) has an axis of rotation (58).

As to claims 5 and 6, Galbreath '164 discloses a stop (above where 59 is pointing in Figure 1).

As to claim 7, Galbreath '164 discloses that the handle further has a retainer flange (48), and further comprising an open keeper (51) that has a handle catch portion (53 and 54). The open keeper (51) is mounted to the base plate (26) for

movement between a retention position, wherein the handle retainer flange is received by the open keeper handle catch portion to retain the handle in the open position, and a release position, wherein the open keeper portion releases the handle retainer flange, handle catch whereby the handle can rotate from the open position to the closed position.

As to claim 8, Galbreath '164 discloses that the open keeper (51) is biased to the retention position.

8. **Claims 1-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,514,142 to Smith (Smith '142) in view of US Pat No 4,014,572 to Binns.**

Regarding claims 1 and 11, Smith '142 discloses a the latch assembly comprising a base plate (51) adapted to mount to the door; and a handle (63) rotatably mounted to the base plate for rotation between a closed position and an open position and having a locking flange (115).

A hook (36) is rotatably mounted to the base plate and operable coupled to the handle for rotation between a locked and an unlocked position as the handle is rotated between the closed and open positions.

The assembly further comprises a closed keeper (110) having a handle catch portion (116), wherein the handle locking flange (115) is received by the keeper handle catch portion (116) when the handle is in the closed position to maintain the handle in the closed position, and an unlatched position, wherein the handle locking flange (115) is release by the closed keeper handle catch portion (116), whereby

the handle can rotate from the closed position to the open position without interference from the closed flange keeper.

The closed keeper further has a surface (124) that is adapted to contact a portion of the handle when the closed keeper is in the unlatched position and the handle is moved from the open position to the closed to move the closed keeper into the latched position (Figure 9-11).

However, Smith '142 fails to disclose that the closed keeper is mounted in the base plate. Smith '142 discloses that the closed keeper is mounted in a second plate (113).

Binns teaches that it is well known in the art to have an assembly wherein the handle (14) and a closed keeper (11) are mounted in the same base plate (13).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the handle and the closed keeper mounted in the same base plate, as taught by Binns, into a device as described by Smith '142, because the fact that the handle and the closed keeper are or not mounted in the same base plate is considered as a design consideration that will not affect the movement of the mechanism of the latch assembly.

As to claim 2, Binns teaches that the closed keeper (11) is rotatably mounted to the base plate.

As to claim 3, Smith '142 discloses that the closed keeper (110) is biased to the latched position.

As to claim 4, Smith '142 discloses that the closed keeper (110) has an axis of rotation (112).

As to claims 5 and 6, Smith '142 discloses a stop (123) to limit the movement of the closed keeper (110).

As to claim 7, Smith '142 discloses that the handle further has a retainer flange (69), and the assembly further comprises an open keeper (90) that has a handle catch portion (92). The open keeper (90) is mounted to the base plate (51) for movement between a retention position, wherein the handle retainer flange is received by the open keeper handle catch portion to retain the handle in the open position, and a release position, wherein the open keeper portion releases the handle retainer flange, handle catch whereby the handle can rotate from the open position to the closed position.

As to claim 8, Smith '142 discloses that the open keeper (90) is biased to the retention position.

As to claim 9, Smith '142 discloses that the open keeper (90) biased by a spring (97).

9. **Claim 9 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,883,164 to Galbreath et al (Galbreath '164) in view of US Pat No 4,014,572 to Binns as applied to claim 1 above, and further in view of US Pat No 3,514,142 to Smith (Smith '142).

Galbreath '164, as modified by Binns, fails to disclose that the open keeper is spring biased to the retention position.

Smith '142 teaches that it is well known in the art to have the open keeper (90) biased by a spring (97).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a spring, as taught by Smith '142, into a device as described by Galbreath '164, as modified by Binns, in order to bias the open keeper.

#### ***Allowable Subject Matter***

10. **Claims 12 and 13 are allowed.**
11. **Claim 10 would be allowable** if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### **Reasons For Allowance**

12. The following is an examiner's statement of reasons for allowance:

Claim 12 is allowable over the prior art of record and claim 10 presents allowable subject matter over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the base plate comprises a tab extending laterally therefrom and the closed keeper further comprises a first stop for limiting the movement of the closed keeper to the unlatched position and a second stop for limiting the movement of the closed keeper to the latched position.

Smith '142 and Binns disclose that the base plate includes a tab (72 and 33 respectively). However, Neither Smith '142, Binns or even Galbreath '164 discloses

that the closed keeper further comprises a first stop for limiting the movement of the closed keeper to the unlatched position and a second stop for limiting the movement of the closed keeper to the latched position. Also, Smith '142 tab (72) is limiting the movement of the handle and Binns tab (33) is for secure the closed keeper in a lock position with or without a locking means.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

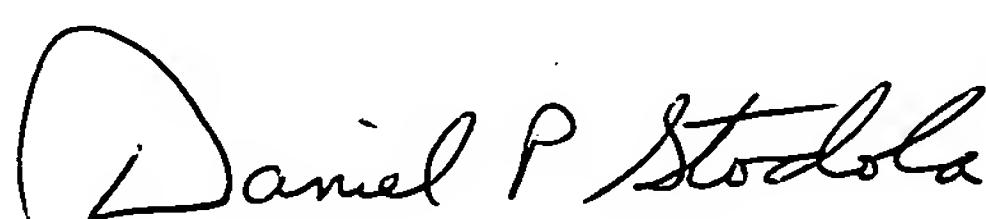
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

Carlos Lugo  
AU 3677

September 28, 2004



DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
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